

Senate Engrossed House Bill

FILED

**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

CHAPTER 46

HOUSE BILL 2587

AN ACT

AMENDING TITLE 44, CHAPTER 11, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 44-1698; RELATING TO CONSUMER REPORTING AGENCIES AND FAIR CREDIT REPORTING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 44, chapter 11, article 6, Arizona Revised Statutes,
3 is amended by adding section 44-1698, to read:

4 44-1698. Consumer credit reports; extension of credit; identity
5 theft; security freeze; definition

6 A. ANY PERSON WHO DOES NOT USE A CONSUMER CREDIT REPORT IN CONNECTION
7 WITH THE APPROVAL OF CREDIT BASED ON THE APPLICATION FOR AN EXTENSION OF
8 CREDIT SHALL NOT LEND MONEY OR EXTEND CREDIT WITHOUT TAKING REASONABLE STEPS
9 TO VERIFY THE CONSUMER'S IDENTITY AND CONFIRM THAT THE APPLICATION FOR AN
10 EXTENSION OF CREDIT IS NOT THE RESULT OF TAKING THE IDENTITY OF ANOTHER
11 PERSON OR ENTITY PURSUANT TO SECTION 13-2008 OR AGGRAVATED TAKING THE
12 IDENTITY OF ANOTHER PERSON OR ENTITY PURSUANT TO SECTION 13-2009.

13 B. ANY PERSON WHO USES A CONSUMER CREDIT REPORT IN CONNECTION WITH THE
14 APPROVAL OF CREDIT BASED ON THE APPLICATION FOR AN EXTENSION OF CREDIT SHALL
15 NOT LEND MONEY OR EXTEND CREDIT WITHOUT TAKING REASONABLE STEPS TO VERIFY THE
16 CONSUMER'S IDENTITY AND CONFIRM THAT THE APPLICATION FOR AN EXTENSION OF
17 CREDIT IS NOT THE RESULT OF TAKING THE IDENTITY OF ANOTHER PERSON OR ENTITY
18 PURSUANT TO SECTION 13-2008 OR AGGRAVATED TAKING THE IDENTITY OF ANOTHER
19 PERSON OR ENTITY PURSUANT TO SECTION 13-2009 IF EITHER OF THE FOLLOWING
20 APPLIES:

21 1. THE CREDITOR HAS RECEIVED NOTIFICATION THAT A POLICE REPORT HAS
22 BEEN FILED WITH A CONSUMER REPORTING AGENCY AND THAT THE APPLICANT HAS BEEN A
23 VICTIM OF AN OFFENSE INVOLVING A VIOLATION OF SECTION 13-2008 OR 13-2009.

24 2. THE CREDITOR HAS RECEIVED NOTIFICATION THAT THE CONSUMER HAS PLACED
25 A FRAUD ALERT OR SECURITY FREEZE ON THE CONSUMER'S CREDIT REPORT.

26 C. IN AN ACTION TO COLLECT ON A DEBT AS A RESULT OF AN EXTENSION OF
27 CREDIT, IF A CONSUMER PROVES BY A PREPONDERANCE OF THE EVIDENCE THAT AN
28 EXTENDER OF CREDIT EXTENDED THE CREDIT IN VIOLATION OF THIS SECTION, THE
29 FINDER OF FACT MAY INFER SOMEONE OTHER THAN THE CONSUMER APPLIED FOR AND
30 RECEIVED THE BENEFIT OF THE EXTENSION OF CREDIT.

31 D. AN ACT OR PRACTICE IN VIOLATION OF THIS SECTION IS AN UNLAWFUL
32 PRACTICE UNDER SECTION 44-1522 AND IS SUBJECT TO ENFORCEMENT THROUGH PRIVATE
33 ACTION AND BY THE ATTORNEY GENERAL. INJUNCTIVE RELIEF MAY BE SOUGHT TO
34 PREVENT FUTURE VIOLATIONS OF THIS SECTION. THE REMEDIES PROVIDED IN THIS
35 SECTION ARE NOT INTENDED TO BE THE EXCLUSIVE REMEDIES AVAILABLE TO A PERSON
36 WHOSE IDENTITY WAS USED TO SECURE AN EXTENSION OF CREDIT IN VIOLATION OF THIS
37 SECTION.

38 E. FOR THE PURPOSES OF THIS SECTION, EXTENSION OF CREDIT DOES NOT
39 INCLUDE AN INCREASE IN AN EXISTING OPEN-END CREDIT PLAN, AS DEFINED IN
40 REGULATION Z OF THE FEDERAL RESERVE SYSTEM, 12 CODE OF FEDERAL REGULATIONS
41 SECTION 226.2, OR ANY CHANGE TO OR REVIEW OF AN EXISTING CREDIT ACCOUNT.

1 F. FINANCIAL INSTITUTIONS THAT ARE REQUIRED TO HAVE A CUSTOMER
2 IDENTIFICATION PROGRAM PURSUANT TO 31 CODE OF FEDERAL REGULATIONS SECTION
3 103.121 ARE EXEMPT FROM THIS SECTION.

4 G. FOR THE PURPOSES OF THIS SECTION, "REASONABLE STEPS" MEANS ANY
5 COMMERCIALY REASONABLE ACTION TAKEN BY AN EXTENDER OF CREDIT THAT IS
6 INTENDED TO IMPROVE IDENTITY VERIFICATION OR CONFIRMATION OR TO LESSEN THE
7 LIKELIHOOD OF A VIOLATION OF SECTIONS 13-2008 AND 13-2009.

APPROVED BY THE GOVERNOR APRIL 16, 2008.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2008.